



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/614,222 07/11/00 FITZGIBBON

J 68895

022242 MMC1/0807  
FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO IL 60603-3406

EXAMINER

RO.B

ART UNIT

PAPER NUMBER

2837

DATE MAILED:

08/07/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/614,222

Applicant(s)

FITZGIBBON ET AL.

Examiner

Bentsu Ro

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14, 19-32 and 37-41 is/are allowed.
- 6) ☒ Claim(s) 15, 17, 18, 33, 35 and 36 is/are rejected.
- 7) ☒ Claim(s) 16 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## FIRST OFFICE ACTION

1. This application is a reissue application of US Patent No. 5,780,987. US Patent No. 5,780,987 contains 18 claims. In this reissue application, applicant has added extra claims 18-40. Thus, there will be two claim 18 in this application.

According to MPEP 608.01 (j), when claims are added, they must be numbered by applicant consecutively beginning with the number next following the highest numbered claim previously presented in the application. The newly added claims therefore should be started from claim 19, not claim 18. In view of the foregoing, claims 18-40 have been renumbered as new claims 19-41. **The new claim numbers should be used throughout the prosecution of this application.**

2. Drawing corrections are required as follows:

- In Fig. 2, change the LED reference numeral "96" to --86--. See specification column 3, line 24.
- Same Fig. 2, change the antenna reference numeral "116" to --110--. See specification column 3, line 34.
- Same Fig. 2, change the up-limit switch reference numeral "19" to --190A--. See specification column 3, line 49.
- Same Fig. 2, inside the "motor controller 94", add pin labels "P03, P30, P20, P21". See specification column 3, lines 50-54.
- In Fig. 3b, inside the microcontroller add reference numeral --282--. See specification column 4, line 3.
- In Fig. 3c, add reference numerals "390" and "392" for the AC hot line and neutral line, respectively. See specification column 4, lines 35-36.

Because the original drawings require correction, the "REQUEST FOR TRANSFER OF DRAWINGS FROM ORIGINAL PATENT TO REISSUE APPLICATION" is not permissible. See MPEP §1413.

3. Specification corrections are required as follows:

- Column 3, lines 51 and 53, each change "microcontroller 282" to --motor controller 94--. See Fig. 2.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15, 17, 18, 33 (claim 33 is the mis-labeled claim 32), 35 (mis-labeled claim 32), and 36 (mis-labeled claim 35) are rejected under 35 U.S.C. 103(a) as being unpatentable over **Collier US Patent No. 5,510,686**.

Before explaining the rejection, the examiner must make some comments with respect to the Collier's patent:

- The text of Collier patent is extremely brief. There is no description of the prior art circuit Figs. 2-2G, therefore, the understanding the circuit operation is extremely difficult.
- Several reference numerals shown in the drawings are inconsistent with the text, therefore, it is more difficult to understand the circuit operation.
- The description of Figs. 4, 5, 7 is inconsistent with text.

Because of the deficiencies of the Collier's patent description, the examiner will not be able to give applicant a full, exact comparison of the claimed elements with the Collier's teaching. However, the examiner believes that Collier does teach the same subject matter as claimed.

Regarding claims 15 and 33 (take claim 33 for example, because both claims are extremely similar), Collier teaches:

- a. Fig. 7 shows a garage door operator for opening and closing a garage door;
- b. Fig. 7 shows a motor 23 for moving the garage door;
- c. Fig. 6d shows a limit switch, including a down limit; thus the down limit switch is a down limit detector for indicating when the garage door is moved to a closed position by the motor;
- d. a timer (see abstract, line 1, which start with "A security timer,...") enable by the indication from said down limit detector that the garage door is closed, disposed to indicate when a preselected interval has expired; (the examiner cannot give applicant a precise explanation of Collier's circuit operation because of the insufficiency of the text, however, the examiner must mention that, in order for the circuit to operate properly, the timer must cooperate with the down limit detector, and also indicate the expiration of a preset time; in this instance, it is four and a half minutes, see abstract.);
- e. Fig. 6 shows a wall switch 14, which is a command signal receiver for receiving a commanded state of the garage door; alternatively, Fig. 6 also shows a receiver, including antenna E1, transistors Q7 and Q1, tuning circuit, operational amplifier, etc. These elements together constitute a command signal receiver;
- f. Fig. 6B shows an IC chip U2; Fig. 6A shows another IC chip U3; either one or both together constitute a microprocessor.

- g. the function of the microprocessor as claimed in claim 33 last sub-paragraph is met by the Collier's teaching because, if the microswitch 34 is closed and the timer's time has expired, the garage door is automatically closed. See abstract.

Regarding claims 17 and 35, all garage door openers are equipped with an obstacle detector. Collier Fig. 7 clearly shows an IR beam 29, IR sensor 28 and IR emitter (no reference numeral). These elements together constitute an optical obstacle detector.

Regarding claims 18 and 36, Collier Fig. 7 includes a remote transmitter 16, a transmitter button 17, and a radio signal 18.

6. Claims 16 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-14, 19-32, 37-41 are allowable.

8. **It is important to note that applicant has offered to surrender the original patent, however, the original patent has not been received by the PTO.**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication should be directed to Bentsu Ro at telephone number (703) 308-3656.

July 30, 2001

*Bentsu Ro*  
**BENTSU RO**  
**PRIMARY EXAMINER**